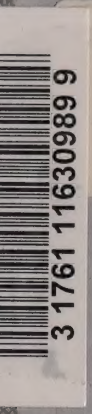

LIFE, LIBERTY AND SECURITY OF THE PERSON UNDER THE CHARTER

Current Issue Review

91-6E

LIFE, LIBERTY AND SECURITY OF THE PERSON UNDER THE CHARTER

Marilyn Pilon
Law and Government Division

Revised 29 February 1996

Library of Parliament
Bibliothèque du Parlement

Research Branch

The Research Branch of the Library of Parliament works exclusively for Parliament, conducting research and providing information for Committees and Members of the Senate and the House of Commons. This service is extended without partisan bias in such forms as Reports, Background Papers and Issue Reviews. Research Officers in the Branch are also available for personal consultation in their respective fields of expertise.

Available in Canada through
your local bookseller
or by mail from
Canada Communication Group -- Publishing
Ottawa, Canada K1A 0S9

Catalogue No. YM32-1/91-6-1996-02E
ISBN 0-660-16544-9

N.B. Any substantive changes in this publication which have been made since the preceding issue are indicated in **bold print.**

CE DOCUMENT EST AUSSI PUBLIÉ EN FRANÇAIS

CANADA

LIBRARY OF PARLIAMENT
BIBLIOTHÈQUE DU PARLEMENT

LIFE, LIBERTY AND SECURITY OF THE PERSON UNDER THE CHARTER*

ISSUE DEFINITION

The *Canadian Charter of Rights and Freedoms* came into force on 17 April 1982. The legal rights guaranteed by the Charter are contained in sections 7 to 14. These sections deal with such matters as the right to life, liberty and security; the right to be secure against unreasonable search and seizure; the rights of an accused upon arrest; the right of an accused to certain proceedings in criminal and penal matters; and the right not to be subject to cruel and unusual punishment.

As there are now a great number of decided cases dealing with these sections, this paper will concentrate on significant decisions of the provincial courts of appeal and the Supreme Court of Canada, with respect to section 7. Section 7 provides as follows:

> 7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

BACKGROUND AND ANALYSIS

A. The Interpretation of an Entrenched Charter

When analyzing the decisions of the courts in section 7, it is important to remember that the Charter is entrenched within the Constitution of Canada and that, by virtue of section 52(1) of the *Constitution Act, 1982*, "the Constitution of Canada is the supreme law of Canada, and any

---

* **The original version of this Current Issue Review was published in February 1992; the paper has been regularly updated since that time.**

law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect."

It could be argued that two sections of the Charter illustrate a conscious attempt by its framers to restrain the Canadian courts from achieving the level of judicial activism prevalent in the United States and to continue in some measure the Canadian tradition of parliamentary supremacy. Section 1 allows legislatures to impose reasonable limits upon rights and freedoms, while section 33 allows the legislatures expressly to declare that a statute may operate notwithstanding certain sections of the Charter.

In its decision in the *Southam* case, the Supreme Court of Canada indicated that "the task of expounding a constitution is crucially different from that of construing a statute." When considering the application of the Charter, it is important to recognize that it is a purposive document; that is, "its purpose is to guarantee and to protect within the limits of reason, the enjoyment of the rights and freedoms it enshrines. It is intended to constrain governmental action inconsistent with those rights and freedoms; it is not in itself an authorization for governmental action."

It is in this context of the contrast between the concepts underlying the Charter and the American Bill of Rights that this paper examines the legal rights protected by section 7. It comments on the possible problems and issues that may arise from attempts to interpret and apply section 7 and on recent court decisions showing the impact of the section on the criminal justice system.

B. Fundamental Justice: Section 7

Section 7 presents two major problems to courts challenged with giving full meaning to the Charter. First, there is the question of what is included in "life, liberty and security of the person" and, second, the question of what is meant by "principles of fundamental justice."

As regards "life," laws that affect the beginning of life or the end of life have been challenged. As regards "liberty," any law imposing a penalty of imprisonment could be affected, as could such issues as prison discipline or security measures imposing extra confinement, or parole

or release procedures. For example, in *Cunningham* v. *Canada*, the Supreme Court of Canada found that 1986 amendments to the *Parole Act* allowing for the continued detention of prisoners who would otherwise be eligible for release on mandatory supervision, affected the liberty interests protected by section 7. "Security of the person" could involve laws that provide for medical, surgical or psychiatric treatment, scientific experimentation with human beings, or sterilization.

The Supreme Court of Canada has delivered judgment in a number of influential decisions that have given meaning and shape to the phrase "principles of fundamental justice." In *Re B.C. Motor Vehicle Act*, the Court said that the phrase is not a protected right but rather qualifies the protected right not to be deprived of "life, liberty and security of the person"; that is, its function is to set the parameters of that right. The Court refused to embark upon an exhaustive analysis of the content of the phrase, ruling instead that the "principles of fundamental justice are to be found in the basic tenets and principles not only of our judicial process but also of the other components of our legal system." In subsequent decisions, the Court has held that in attempting to determine these basic tenets, one must consider the impugned measure "against the applicable principles and policies that have animated legislative and judicial practice in the field." These practices, said the Court "have sought to achieve ... a just accommodation between the interests of the individual and those of the state, both of which factors play a part in assessing whether a particular law violates the principles of fundamental justice." It is this balancing that the courts attempt in every Charter case.

In *Thomson Newspapers Ltd.*, the Supreme Court was of the view that section 8 of the Charter (the right to be secure against unreasonable search or seizure) and section 14 (the right to an interpreter during court or tribunal proceedings) represent attempts to "address specific deprivations of the 'right' to life, liberty and security of the person in breach of the principles of fundamental justice, and as such, violations of section 7." These sections, and others, provide a guide or "invaluable key" to the meaning of the phrase "principles of fundamental justice."

The *Thomson* case made the same reference as earlier cases to specific provisions of the Charter as guides to meaning. It held that section 11(c) (the right of any person charged with

an offence not to be compelled to be a witness in proceedings against himself or herself in respect of that offence) and section 13 (the right against self-incrimination or what is known as "the right to silence") throw light on the meaning of this phrase. Therefore, the Court held that section 7 can be used to "protect the individual from fundamental unfairness arising out of self-incriminatory statements in circumstances not covered by sections 11(c) and section 13." Having said that, however, the Court did caution that the principles of fundamental justice "vary with the context" and that the rights guaranteed by sections 11(c) and 13, even with section 7 factored in, are not absolute; accordingly, although section 7 guarantees a person the right to a fair hearing, "it does not entitle him to the most favourable procedures that could possibly be imagined."

This was not an unprecedented position for the Court. Rather than reflecting a willingness to dilute Charter protections, the Court was saying, in essence, what it had said in 1988 in the *Beare* case. There it had held that, like "other provisions of the Charter, section 7 must be construed in light of the interests it was meant to protect. It should be given a generous interpretation, but it is important not to overshoot the actual purpose of the right in question."

In *Rodriguez* v. *Attorney General of British Columbia*, the British Columbia Court of Appeal was called upon to consider the scope of the "principles of fundamental justice" that must be complied with in legislation that may deprive an individual of life, liberty or security of the person. At issue in this case was the validity of section 241 (b) of the *Criminal Code*, which prohibits aiding or abetting suicide. The appellant, suffering from a progressive and debilitating terminal illness, sought a declaration that would allow a physician to assist her in taking her own life at some future time when she would likely be unable to commit suicide without help.

The majority upheld the lower court's dismissal. Distinguishing the Supreme Court of Canada's decision in *Morgentaler*, Mr. Justice Hollinrake found that, because "there has been no legislative recognition that a physician-assisted suicide is in line with contemporary societal values," it cannot be claimed that being deprived of the right to a physician-assisted suicide is not in accordance with the principles of fundamental justice. In concurring reasons, Madam Justice Proudfoot expressed the view that "the broad religious, ethical, moral and social issues implicit in the merits of this case are not suited to resolution by a court on affidavit evidence at the instance of

a single individual." Chief Justice McEachern dissented in the result, finding that the operation of section 241 violated the appellant's section 7 Charter rights to liberty and security of the person, since "any provision which imposes an indeterminate period of senseless physical and psychological suffering upon someone who is shortly to die anyway cannot conform with any principle of fundamental justice." Furthermore, the violation could not be justified under section 1 since it did not satisfy the test for minimal impairment. Rather than striking down section 241, which offended section 7 of the Charter only in its operation upon the appellant, the Chief Justice would have declared that, upon compliance with conditions set out by the court, "neither the Appellant nor any physician assisting her to attempt to commit, or to commit suicide," would commit any offence against the law of Canada.

On 30 September 1993, a five-four majority of the Supreme Court of Canada dismissed Ms. Rodriguez's appeal, finding that section 241(b) impinged on her right to security of the person guaranteed by section 7, but not in a way violating any principle of fundamental justice. In dissenting reasons, Madam Justice McLachlin argued that section 241(b) did offend the principles of fundamental justice by depriving the appellant of the right to deal with her own body as she chose. Furthermore, the law could not be demonstrably justified under section 1, since an absolute prohibition on assisted suicide is not necessary to protect the vulnerable; existing provisions of the *Criminal Code*, along with a requirement for a court order to permit assistance, would accomplish that. For his part, Chief Justice Lamer would have declared section 241(b) invalid because it infringed equality rights guaranteed under section 15(1) of the Charter since it deprived those unable to end their lives without assistance of the option of choosing suicide.

Section 7 is often used as a back-up clause by Charter litigants since successive Supreme Court of Canada and lower court decisions have interpreted it as supplementary protection, affording enhancement to specific rights such as those protected by sections 8 and 11(c). As such, Charter litigants plead it as an alternative to other sections of the Charter. The Supreme Court of Canada has consistently taken the position (as in the 1990 *Thomson Newspapers Ltd.* case) that "fairness of the judicial process is what, in the end, fundamental justice is all about."

1. Scope of Application

In the Federal Court of Appeal decision in *Operation Dismantle* there was an attempt to narrow the scope of this section. Some judges stated that it did not confer any independent absolute right to life or security of the person; Mr. Justice Pratte stated that it should not be interpreted in a manner that would allow the courts to substitute their opinions for those of Parliament and the Executive on purely political questions. On appeal, the Supreme Court of Canada dismissed the appeal brought by Operation Dismantle but held that the courts can review federal Cabinet decisions to ensure that the Canadian government honours a general duty to act in accordance with the dictates of the Charter. This decision raises the dilemma that a Court may face in trying to avoid substituting its own judgment for that of the Executive, while attempting to assess whether government policy violates the Charter.

Despite this dilemma, it is clear that in appropriate circumstances the Supreme Court of Canada is prepared to use section 7 to facilitate the right of the individual to challenge executive and governmental decision-making. In the *Nelles* case, the Court held that a citizen who had been injured by actions of a Crown prosecutor which were "maliciously in fraud of his or her duties" could pursue a civil claim for damages or seek a Charter remedy. This decision has done away with the centuries-old tradition of absolute immunity for Attorneys General and their agents. The Court held that a malicious prosecution would be one depriving an individual of the right to liberty and security of the person in contravention of the principles of fundamental justice.

In *Kindler* v. *Canada (Minister of Justice)* and *Reference re Ng Extradition (Canada),* the Supreme Court of Canada rendered judgments that showed considerable deference in applying section 7 to decisions by the executive in the context of extradition. The Minister of Justice had agreed to allow the extradition of individuals who could face the death penalty in the United States, without first obtaining assurances that the death penalty would not be imposed. The Court had to decide whether the Minister's decision violated the rights of these people under sections 7 and 12 of the Charter.

A 4 to 3 majority confirmed the position previously taken by the Court in *Canada* v. *Schmidt*; in the case of extradition, section 7 will be contravened where the penalty that may be

imposed in the requesting state sufficiently shocks the Canadian conscience. In assessing the competing interests involved in an extradition, the Executive is likely to be better informed than the courts. Therefore, "judicial intervention must be limited to cases of real substance."

Because there is no consensus in Canada that capital punishment is morally abhorrent, the Court concluded that it would not be "absolutely unacceptable" to allow the extradition without assurances. Furthermore, requiring the Minister to seek assurances that the death penalty will not be demanded would give extra-territorial application to the Charter; the comity of nations requires that Canada not steadfastly insist that an extraditing nation's law must conform to Canadian law in every case.

In strong, dissenting reasons, however, three justices held that the death penalty is *per se* a cruel and unusual punishment, which, therefore, violates section 12 of the Charter. Two of the dissenting judges held that, although the Charter can have no extraterritorial application, an individual within Canada must benefit from the full application of the Charter. All three of the dissenting judges concluded that the Minister of Justice should have been required to obtain assurances before permitting extradition in this case.

2. General Application of Section 7 to Criminal Law

Shortly after the Charter was adopted, courts indicated that they were not generally willing to apply section 7 broadly and thus change the existing tenets of criminal law. For example, in the *Balderstone* case the section was held not to affect the section of the *Criminal Code* that authorizes the Attorney-General to indict an accused despite his or her discharge on a preliminary inquiry.

Statutes imposing minimum sentences have been held not to offend this section. In the *Gustavson* case, it was decided that the dangerous offender sections of the *Criminal Code* did not violate section 7 of the Charter; in later cases, however, the section was used to review the incarceration of dangerous offenders.

a. *Mens Rea* or Intent

One of the most important effects of the application of section 7 to the criminal law has been the courts' review of the mental element *(mens rea)* required in some crimes, beginning with the decision in *Re B.C. Motor Vehicle Act*. In this case, the Supreme Court rejected the argument that sections 7 and 8 to 14 were only procedural guarantees and found that some of these sections go further. In fact, the Court applied section 7 to evaluate the substance of the legislation in question. This meant that the courts now had the obligation to ensure that the definition of a crime as prescribed by Parliament must not be inconsistent with the principles of fundamental justice, in a case where the crime carried the sanction of deprivation of life, liberty or security of the person.

In *Re B.C. Motor Vehicle Act*, the Court considered a provincial statute that made it an offence to drive with a suspended licence, even though the person charged was unaware of the suspension; the statute carried a possible sanction of imprisonment. The Supreme Court held that absolute liability was contrary to the principles of fundamental justice and, in combination with the possibility of imprisonment, violated section 7 of the Charter. An accused facing imprisonment must have, at a minimum, some degree of moral culpability, at least negligence coupled with a presumption of liability. This would give the accused the defence of due diligence.

In *R.* v. *Vaillancourt*, the Supreme Court struck down section 213(d) (now section 230(d)) of the *Criminal Code*, which defined murder as the commission of one of an enumerated series of offences with a weapon that resulted in death. The definition of the offence permitted an accused person to be convicted, even though there had been no intention of using the weapon to kill; for example, where a gun discharged accidentally resulted in a death. A majority of the Court was of the opinion that the particularly high degree of moral blame that murder carries in our society justifies the stigma and sentence attached to a murder conviction. Section 7 therefore requires a mental awareness of the particular nature of that crime. That mental element obtains where a person means to cause death or to cause bodily harm and is reckless of whether death ensues or not. The Court held, however, that it was not necessary to take this position. Section 7 requires that, at a minimum, the offence must envisage the objective foreseeability of death; that is,

a reasonable person, in committing the elements of the offence, would have foreseen that the death of the victim was likely. The section in question (213(d) of the Code) permitted a conviction for murder even where a reasonable person would not have foreseen such a probability; therefore the section was declared to be of no force or effect.

In *R.* v. *Martineau*, the Supreme Court declared unconstitutional a murder offence similar to that struck down in *Vaillancourt*. The provision of the *Criminal Code* in issue was section 213(a) (now 230(a)), which provides for a conviction of murder where death ensues after a person does bodily harm to another while committing an offence or during flight after the offence. The Court confirmed as a matter of law its opinion in *Vaillancourt*; a conviction for murder requires proof beyond a reasonable doubt of subjective foresight of death.

Subjective foreseeability of consequences will not, however, be required for all criminal offences. In *DeSousa* v. *The Queen*, the Supreme Court of Canada considered the requisite *mens rea* for the *Criminal Code* offence of "unlawfully" causing bodily harm. The accused in that case had argued that the minimum mental element required by section 7 of the Charter would necessitate an intention to cause bodily harm.

The Supreme Court analyzed the *mens rea* called for in section 269 and found that it has two aspects. First, there must be an underlying offence, which may be prohibited by either federal or provincial statute, with a constitutionally sufficient mental element (absolute liability offences would be excluded as a matter of statutory interpretation). In addition, the bodily harm caused by the "unlawful" act must be objectively foreseeable. Finding that the offence was not one of those few that, due to their stigma and penalty, "require fault based on a subjective standard," the Court held that objective foresight of bodily harm was sufficient mental element for section 269 to satisfy the dictates of section 7 of the Charter.

A unanimous Supreme Court of Canada subsequently found that the *mens rea* for the offence of dangerous driving should also be assessed objectively, but in the context of all the events surrounding the incident. In *R.* v. *Hundal*, Mr. Justice Cory found that section 249 of the *Criminal Code* requires an objective standard, since "it would be a denial of common sense for a driver, whose conduct was objectively dangerous, to be acquitted on the ground that he was not

thinking of his manner of driving at the time of the accident." In order to convict, the trier of fact must be satisfied that the conduct amounted to a marked departure from the standard of care that a reasonable person would observe in the accused's situation.

On 9 September 1993, the Supreme Court of Canada released decisions in four cases that allowed objective foresight to ground liability for manslaughter, failure to provide necessaries of life and careless use and storage of firearms. In *R.* v. *Creighton*, the Court considered a charge of "unlawful act manslaughter" brought against an accused who had injected a woman with a quantity of cocaine that brought about her death. The defence conceded that the injection constituted "trafficking" within the definition of section 4 of the *Narcotic Control Act*, but argued that the common law definition of the manslaughter offence contravened section 7 of the Charter. A five to four majority of the Court held that the test for the *mens rea* of unlawful act manslaughter "is (in addition to *mens rea* of the underlying offence) objective foreseeability of the risk of bodily harm which is neither trivial nor transitory, in the context of a dangerous act." Foreseeability of harm, rather than death, is appropriate to the lesser stigma associated with the offence of manslaughter; furthermore, the absence of a minimum sentence for manslaughter also preserves the principle that those causing harm intentionally must be punished more severely than those causing harm unintentionally. The Court found that the principles of fundamental justice are satisfied where there is an element of mental fault or moral culpability that is proportionate to the seriousness and consequences of the offence charged. The four dissenting justices thought that the stigma attached to a conviction for manslaughter was significant enough to require, "at a minimum, objective foresight of the risk of death in order for the offence to comply with section 7 of the Charter."

In *R.* v. *Gosset*, a police officer was charged with unlawful act manslaughter in the death of a suspect resulting from careless use of a firearm, contrary to section 86(2) of the *Criminal Code*. Only three of eight justices would have required objective foresight of the risk of death to ground a conviction for manslaughter. The Court was unanimous, however, in holding that, in order to convict for the underlying offence of "careless use" of a firearm, the jury need only find

that the accused's use constituted a "marked departure from the standard of care of a reasonably prudent person in the circumstances."

That finding was consistent with the Court's contemporaneous ruling in *R.* v. *Finlay* concerning the offence of storing firearms and ammunition "in a careless manner," contrary to section 86(2) of the *Criminal Code*. The fault requirement for that offence is also to be assessed objectively in order to punish conduct that constitutes "a marked departure from the standard of care of a reasonable person in the circumstances."

Finally, in *R.* v. *Naglik*, the Supreme Court of Canada upheld an objective basis of liability under section 215 of the *Criminal Code*, which creates a duty to provide "necessaries of life" for a child and punishes failure to do so. Finding that the duty "would be meaningless if every individual defined its content for him or herself according to his or her subjective beliefs and priorities," the Court agreed that the conduct of the accused should be measured against an objective societal standard. Thus, section 215(2)(a)(ii) would punish "a marked departure from the conduct of a reasonably prudent parent in circumstances where it was objectively foreseeable that the failure to provide the necessaries of life would lead to a risk of danger to the life, or a risk of permanent endangerment to the health, of the child." This meets the fault requirements of section 7 of the Charter, since the absence of a minimum penalty allows for punishment in proportion to the level of fault and any stigma incurred as a result of conviction would not be "unfairly disproportionate nor unrelated to the culpable conduct" of the accused.

The Supreme Court of Canada was divided with respect to the nature of the objective test to be applied in all four of these cases. The majority advocated an objective test that would not take into account personal characteristics of the accused, except to show that he or she lacked the capacity to appreciate the risk. In contrast, the Chief Justice would measure the accused's behaviour against the standard of a reasonable person "constructed to account for the accused's particular capacities and resulting inability to perceive and address certain risks." He argued that this was not a subjective test, since the relevant characteristics that might excuse "must be traits which the accused could not control or otherwise manage in the circumstances."

Citing as a principle of fundamental justice "that a person should not be found guilty of a crime if he or she is morally blameless," the Quebec Court of Appeal has declared the *Criminal Code* defence of compulsion by threat (section 17) "inoperative" because it is available only to an accused acting under threat of immediate death or bodily harm from a person "present" at the time the offence was committed. The accused in *R.* v. *Langlois* was a penitentiary employee who, acting under threats of harm to his family, received drugs and delivered them to an inmate; the person making the threats was not present at the time of the offence. Because section 17 creates "a real risk of criminal conviction for normatively involuntary acts" that should not incur the disapprobation of society, the court held that section 17 did not accord with the principles of fundamental justice. As a result of the court's declaration, the common law defence of duress then became available to the accused, under section 8 of the *Criminal Code*; this removed the requirement for the threats to emanate from persons present at the scene of the crime.

b. Intoxication

The defence of intoxication has long been allowed at common law, in recognition of the fact that alcohol affects "mental processes and the formulation of intention," and that "persons who lack the requisite mental element for a crime should not be found guilty of committing that crime." However, Canadian jurisprudence had limited the defence to "specific" intent offences (like murder), where the practical effect would be conviction for a lesser "general" intent offence (such as manslaughter). In general intent offences, including assault or sexual assault, the Supreme Court had refused to allow the defence and had even substituted the fact of self-induced intoxication for proof of the mental element of the crime. As a result, the judicial classification of offences into crimes of general or specific intent had often been criticized as arbitrarily imposing an objective standard for liability in so-called general intent offences.

In *R.* v. *Daviault*, the Supreme Court of Canada revised the law to allow self-induced intoxication to be raised as a defence to a sexual assault charge (a general intent offence), in those "rare" cases where the level of intoxication is so severe as to be "akin to automatism or insanity." A two-thirds majority of the Court held that substituting self-induced intoxication for the

otherwise requisite proof of *mens rea* violated an accused's right to fundamental justice under section 7 of the Charter. Because a conviction could result, despite a reasonable doubt as to an otherwise essential element of the offence, the presumption of innocence protected by section 11(d) of the Charter was also violated. However, because of the nature of the evidence necessary to demonstrate the requisite level of intoxication, the Court further held that "the accused should be called upon to establish it on the balance of probabilities." Furthermore, "[e]xpert evidence would be required to confirm that the accused was probably in a state akin to automatism or insanity as a result of his drinking."

Directing a new trial for the accused, the Supreme Court of Canada expressed the view that its decision in *Daviault* would affect the availability of the intoxication defence only in the rarest of circumstances. However, considerable public concern was subsequently raised by a handful of lower court decisions suggesting otherwise. In response to that concern, Justice Minister Allan Rock introduced Bill C-72, An Act to amend the *Criminal Code* (Self-induced intoxication) on 24 February 1995.

Under the heading "Self-induced Intoxication," Bill C-72 added section 33.1 to the *Criminal Code*. This disallows the intoxication defence in a case where an accused had departed "markedly" from a prescribed standard of reasonable care by voluntarily or involuntarily interfering or threatening to interfere with the bodily integrity of another person "while in a state of self-induced intoxication that renders the person unaware of, or incapable of consciously controlling, their behaviour."

c. Insanity

In *R.* v. *Swain*, the Supreme Court of Canada considered whether the common law rule that permits the Crown to raise the issue of the accused's insanity at trial, over the accused's objection, was constitutional in light of section 7. The primary issue concerned a conflict between two of the principles of fundamental justice upon the application of the common law rule. Permitting the Crown to raise the issue of the accused's insanity, which is a defence to a criminal charge, conflicts with the principle that the accused alone is entitled to conduct his or her defence.

It may prevent the accused from raising other defences with which the insanity plea is inconsistent. It also tends to undermine the credibility of the accused, and may suggest to a jury that the accused is the type of person who would commit the offence.

On the other hand, permitting the Crown to raise the defence of insanity where the accused elects not to do so may uphold society's interest in maintaining the fundamental principle that sanity is an essential element of criminal responsibility. Otherwise, a person could be convicted although he or she is incapable of having criminal intent.

A majority held that, because the purpose of the Charter is primarily to uphold the rights of the individual against the state, the accused's right to conduct his or her defence takes precedence over society's interest in upholding the principle that sanity is an essential element to criminal responsibility. Thus, accused persons' decisions not to avail themselves of the insanity defence must be respected by the Crown.

The accused's right to conduct his or her defence is not absolute, however. The Court then formulated a new common law rule in light of the Charter; it defines the circumstances in which the Crown may raise the issue of insanity where the accused has decided not to do so. Where the accused attempts to show that he or she did not have the criminal intent required for the crime, the Crown cannot at that point be precluded from raising the issue of insanity. Further, once the accused has been found guilty and has not pleaded insanity, the Crown may then raise the issue.

In *Swain*, the Supreme Court of Canada also considered the constitutionality of the *Criminal Code* provision whereby a person found not guilty by reason of insanity is to be committed immediately into strict custody until the pleasure of the Lieutenant Governor is known. A majority held that this provision violated section 7 of the Charter because it denied such a person the procedural safeguard of a hearing to determine whether he or she continued to be dangerous before being deprived of liberty. The Court rejected the argument that the section constituted a reasonable limit under section 1. Because it prescribed committal for an indeterminate period, it did not meet the section 1 requirement that, in order to be valid, a law should impair the section 7 right to the minimum extent possible.

The majority also held that the provision violated section 9 of the Charter for similar reasons. The Court granted the legislature a six-month transitional period during which the provision would remain valid with the remedy of *habeas corpus* available if a hearing was not held within a period of 30 to 60 days after the committal.

In response to the *Swain* case, in December 1991 Parliament enacted a bill to amend the mental disorder provisions of the *Criminal Code*. The new law provides for establishment of provincial review boards with responsibility for case-by-case decisions on the care and detention of persons with mental disorders who have committed crimes. The review board must make a disposition with respect to the care and detention of an accused who has been found not criminally responsible on account of mental disorder, within 45 days of the verdict. Where the court has made an initial disposition (or in exceptional circumstances as determined by the court) the delay for making a disposition can be extended to 90 days.

d. The Right to Present Full Answer and Defence

In *R.* v. *Stinchcombe*, the Supreme Court of Canada characterized the right to make full answer and defence as a common law right that "has acquired new vigour by virtue of its inclusion in section 7 of the *Canadian Charter of Rights and Freedoms* as one of the principles of fundamental justice." The accused in *Stinchcombe* had sought disclosure of the content of statements taken from a Crown witness following a preliminary inquiry; Crown counsel had refused, indicating that the witness would not be called at trial because she was not worthy of credit. Ordering production of the statements and a new trial, Mr. Justice Sopinka held that an accused's right to make full answer and defence imposed a general duty to disclose all relevant information to the defence, subject to the Crown's duty to respect the rules of privilege and to protect the identity of informers. Furthermore, Crown counsel's discretion to withhold such information would be reviewable by the trial judge.

In two decisions released on the same day, the Supreme Court of Canada has since clarified the law respecting an accused's right to the production of private records in sexual assault cases. In A *(L.L.)* v. *B. (A.)*, the Court refused to recognize a blanket or "class

privilege" for private medical and counselling records in the hands of third parties, finding that such records may have to be disclosed in order to allow a defendant to make full answer and defence.

In the companion case of *R.* v. *O'Connor*, the Court set out the tests and procedure to be used to determine when disclosure of private records will be necessary in a sexual assault trial. A 5-4 majority of justices also said that therapeutic records already in the hands of the Crown are no longer confidential and will be subject to the usual disclosure obligations set out in *Stinchcombe*. The Court went on to consider possible remedies for non-disclosure of private records by the Crown, including the issue of when a stay of proceedings would be appropriate. Deciding that any adverse impact on the appellant's ability to make full answer and defence could be remedied by a disclosure order and adjournment, a 6-3 majority agreed that a stay of proceedings was not necessary in the *O'Connor* case.

Dealing with a related issue, the Ontario Court of Appeal overturned a stay of proceedings granted to an accused who was unable to have access to interview notes made by a social worker at a Sexual Assault Crisis Centre. In *R.* v. *Carosella*, notes of the complainant's interview had been shredded pursuant to a general policy decision taken by the Centre some time before the complainant had consented to the production of the notes for review by the trial judge. While a majority deplored the action taken by the Crisis Centre, the Court was not persuaded that the accused's right to make full answer and defence had been compromised. Noting that the missing notes were not a written statement by the complainant upon which she might have been cross-examined, the Court was not prepared to uphold a stay of proceedings without evidence of something more than a "mere risk" tc a Charter right.

In *R.* v. *Durette*, the Supreme Court of Canada had occasion to consider an accused's right to make full answer and defence in the context of access to material filed in support of an application for wiretap authorization. According to the majority decision, the validity of an authorization, and hence the admissibility of wiretap evidence, is "heavily dependent upon the

contents" of affidavits filed in support of the application. With reference to the disclosure obligation discussed in *Stinchcombe*, Mr. Justice Sopinka concluded that "when determining whether the contents of wiretap affidavits should be disclosed to an accused, full disclosure should be the rule, subject only to certain exceptions based upon overriding public interests which may justify non-disclosure. The affidavits should only be edited to the extent necessary to protect those overriding public interests."

In the *Seaboyer* and *Gayme* cases, the Supreme Court of Canada considered whether section 276 of the *Criminal Code*, the "rape-shield" law, violated sections 7 and 11(d) of the Charter. Section 276 prohibited the use of evidence on the complainant's sexual activity with any person other than the accused, except in selected circumstances as set out in the section. The law was held to infringe section 7 because the blanket exclusion of all such evidence, not coming within the three exceptions provided, could result in the exclusion of relevant evidence essential to the presentation of a legitimate defence. By denying the accused the opportunity to present such evidence, he or she could be deprived of a fair trial, in violation of section 11(d).

The Court held that striking down section 276 would not revive the old common law view of the relevance of sexual conduct evidence. Evidence of sexual conduct and reputation cannot today be regarded as relevant either to the issue of the complainant's credibility or to that of consent. It will be admissible only in exceptional circumstances, where it is tendered for a legitimate purpose and logically supports a defence, and where its relevance is not outweighed by its prejudicial effect on the trial process.

On 12 December 1991, Bill C-49, containing amendments to the *Criminal Code* to replace section 276, received first reading in Parliament. (It received Royal Assent on 23 June 1992). The new law renders inadmissible any evidence of a complainant's sexual activity other than that which forms the subject matter of the charge, except by application to the judge, who will determine admissibility on the basis of criteria provided. Such evidence is not admissible "to support an inference that, by reason of the sexual nature of that activity," a complainant is more likely to have consented to the act complained of, or is less worthy of belief.

Additional provisions define consent for the purposes of sexual assault, and the defences of consent or mistaken belief in consent are removed or limited in various circumstances. Consent is defined as "the voluntary agreement of the complainant to engage in the sexual activity in question." There is no consent where that agreement is expressed by someone other than the complainant, where a complainant is incapable of consenting, or where "the accused induced the complainant to engage in the activity by abusing a position of trust, power or authority." There is also no consent where the complainant has expressed, by words or conduct, a lack of agreement to engage in the activity.

The defence of mistaken belief in consent is precluded where that belief arose from the accused's self-induced intoxication, recklessness or wilful blindness, or where the "accused did not take reasonable steps, in the circumstances known to the accused at the time," to ascertain that there was consent. The latter is a departure from the common law, which excused an accused who honestly believed the complainant was consenting, even though that belief was unreasonable; reasonableness could only then be considered in determining the honesty of the accused's belief. The new law introduces an objective standard that takes into account the subjective circumstances of the accused. It also places a greater evidentiary burden on any accused wishing to plead the defence of mistaken belief in consent.

e. Right to Silence

The right to silence is a basic tenet of the Canadian legal system and, as such, falls within the ambit of section 7. An accused person has the right to remain silent during an investigation and at a trial. In *R.* v. *Hébert*, the Supreme Court held that an accused's right to silence had been infringed; the accused, while being detained, had made incriminating statements to a police officer posing as an arrested suspect. The accused, after consulting counsel, had indicated that he did not wish to make a statement. The Court held that the accused's right to silence prior to trial arises by analogy with other legal rules against self-incrimination and is also related to a concern with maintaining the reputation and integrity of the judicial process. The detained accused has the fundamental right to choose whether to speak to the authorities or to remain silent. Under

section 7, the state is not entitled to use its superior power to override the suspect's will and negate his choice. In this case, the police had violated the accused's choice to remain silent by using a trick to negate his decision.

In *R.* v. *Broyles*, the Supreme Court of Canada reiterated the accused's right to silence guaranteed by section 7, including the right to choose whether or not to make a statement to authorities. At the request of police, a friend wearing a recording device had visited the accused in detention. The Court held that Mr. Broyles's right to silence had been violated because the statement he made at that time was not voluntary. It had been elicited by an "agent of the state" attempting to exploit the appellant's trust so as to undermine his confidence in his lawyer's advice to remain silent. This violation of section 7 could not be justified under section 1 since the police action was neither authorized by statute nor the result of a common law rule. Finding that the statement should not have been admitted, the Court overturned the conviction and ordered a new trial.

The right to silence was also re-affirmed in the *Chambers* case, where Mr. Justice Cory ordered a new trial largely on the basis of the infringement of this right. He said that it had been quite improper and highly prejudicial for Crown counsel to cross-examine the accused about his silence in response to police questioning during their investigation of a drug case. The Court followed a line of authorities affirming that there is a right to silence that can properly be exercised by an accused person in the investigative stages of proceedings.

The Supreme Court of Canada has also said, however, that an accused person implicated by the testimony of a co-accused may refer to the pre-trial silence of the latter in order to cast doubt on his or her credibility. The majority decision in *R.* v. *Crawford*; *R.* v. *Creighton* acknowledged that the section 7 rights of two co-accused will compete where one "asserts his right to silence and that its exercise not be used against him to his prejudice, while the other contends that he has the right to make full use of the pre-trial silence of his co-accused in order to make full answer and defence." In striking a balance between the two, the Court held that the jury in such a case should be advised that pre-trial silence may be cited to attack the credibility of a co-accused but not used as possible evidence of innocence or guilt. Furthermore, pre-trial silence must not be

given any weight if the jury is satisfied it was due to a factor that did not reflect on the credibility of the accused, such as a police caution or advice of counsel.

The Supreme Court of Canada has also considered the section 7 right to silence as it may apply to witnesses at criminal trials who are also suspects or separately charged co-accused. In *R.* v. *S. (R.J.)*, a majority of the Court agreed that courts have the discretion to quash a subpoena, where the general rule of compellability would be unfairly prejudicial to such a witness. A differently constituted majority also found that section 7 provides for a partial "derivative use-immunity" whereby evidence derived from compelled testimony may be excluded in later proceedings against the witness. This limit is in addition to the evidentiary immunity provided by section 13 of the Charter. The Supreme Court of Canada subsequently reviewed the compellability of suspects and separately charged co-accused at preliminary inquiries in *R.* v. *Jobin* and *R.* v. *Primeau,* and applied the principles elucidated in *R.* v. *S. (R.J.)*, in the context of regulatory proceedings in *B.C. Securities Commission* v. *Branch*.

The Supreme Court has since made it clear, however, that "the principle against self-incrimination... does not require the appellant to be provided with immunity against the use of statutorily compelled information" in subsequent regulatory proceedings. Specifically, the court held that section 7 "should not be understood to elevate all records produced under statutory compulsion to the status of compelled testimony at a criminal or investigative hearing." In *R.* v. *Fitzpatrick*, the Court considered the admissibility of "hail reports" and daily fishing logs in a regulatory prosecution for overfishing under the *Fisheries Act*. The Act required all fishers to provide records of their daily catch to officials from the Department of Fisheries and Oceans for use in managing the commercial fishery by monitoring fish stocks and adjusting quotas. In a unanimous decision of the Court, Mr. Justice La Forest undertook a contextual analysis of the question and concluded that the principle against self-incrimination had not been "engaged" since there had been no adversarial or inquisitorial relationship between the accused and the state at the time the information had been statutorily compelled. Furthermore, the information could said to be

"coerced" only to the extent that it was a condition of participating in a regulated activity.

In *R.* v. *Jones*, the Supreme Court of Canada considered the right to silence protection afforded by section 7, in the context of the sentencing process. Mr. Jones had argued that psychiatric evidence obtained during a fitness assessment should be inadmissible in dangerous offender proceedings against him. A five-four majority of the Court rejected his appeal on the ground that section 7 has a more limited scope when applied to the sentencing .stage, which "places a stronger emphasis on societal interests and more narrowly defines the procedural protection accorded to the offender." In support of his dissenting opinion, Chief Justice Lamer noted that subsequent 1991 *Criminal Code* amendments dealing with "mental disorder" had clearly rendered such evidence inadmissible in dangerous offender proceedings.

f. Rules of Evidence

In *R.* v. *Laramee*, the Manitoba Court of Appeal held that certain common law rules of evidence are also principles of fundamental justice and failure to observe them can amount to a denial of section 7 rights. The case concerned the validity of section 715.1 of the *Criminal Code*, which authorizes the use of the videotaped statements of young complainants in sexual assault trials. Mr. Justice Twaddle found the provision to be at odds with the "best evidence" rule, while Madam Justice Helper argued that it offended the rule prohibiting evidence of previous consistent statements, in violation of both sections 7 and 11(d) of the Charter. All agreed, however, that section 715.1 could not be saved as a reasonable limit under section 1 of the *Charter of Rights and Freedoms*. Although protecting young complainants from the trauma of testifying in open court was a sufficiently pressing objective to warrant overriding a Charter right, the proportionality test was not met. The legislation could not achieve the desired goal since the complainant would still be required to adopt the evidence in court and to submit to cross-examination. Madam Justice Helper also found that the section was over broad; not all young victims would require the protection of section 715.1 and the resulting unfairness of the legislation far outweighed "the objective it was designed to meet."

On 15 June 1993, the Supreme Court of Canada reversed the finding of the Manitoba Court of Appeal, holding that section 715.1 of the *Criminal Code* does not limit the rights guaranteed by section 7 of the Charter. The decision in *R.* v. *L. (D.O.)* was given orally from the bench. In reasons for judgment, rendered 18 November 1993, the Court did not accept that section 715.1 offended rules of evidence against the admission of hearsay or prior consistent statements. Moreover, the majority found that "the incorporation of judicial discretion into section 715.1, which permits a trial judge to edit or refuse to admit videotaped evidence where its prejudicial effect outweighs its probative value, ensures that section 715.1 is consistent with fundamental principles of justice and the right to a fair trial protected by sections 7 and 11(d) of the Charter."

In the related case of *R.* v. *Levogiannis*, heard and decided on the same day, the Supreme Court of Canada affirmed the constitutional validity of section 486(2.1) of the *Criminal Code*. That provision allows young complainants in sexual assault trials to testify behind a screen, or outside the court room via closed-circuit television, where the judge finds that blocking a complainant's view of the accused is "necessary to obtain a full and candid account of the acts complained of from the complainant." The Court held that the absence of face-to-face confrontation between the accused and the complainant does not infringe any principle of fundamental justice, since the accused has no absolute right to be in the sight of witnesses testifying against him. Furthermore, "the fact that the complainant's giving of evidence may be facilitated by the use of a screening device in no way restricts or impairs an accused's ability to cross-examine the complainant." Thus, section 486(2.1) does not violate section 7 of the Charter.

Rules of evidence were also cited in the striking down of section 198(1)(d) of the *Criminal Code* whereby evidence that a person had been convicted of keeping a disorderly house was, "in the absence of any evidence to the contrary," proof that the house was a "disorderly house" for the purpose of proceedings against anyone alleged to have been "an inmate" or to have been "found" in such a place at the same time. In *R.* v. *Janoff*, the Quebec Court of Appeal held that section 198(1)(d) offended sections 7 and 11(d) of the Charter, on the grounds that the resulting presumption conflicted with rules of evidence respecting hearsay and opinion evidence

and relevance. The Court found that those rules constitute "precepts of fundamental justice which ensure a fair trial." In the absence of evidence to meet the "proportionality" test established in *R. v. Oakes*, the legislation could not be justified under section 1 of the Charter and was declared to be of no force or effect.

g. Vagueness

In the *Nova Scotia Pharmaceutical Society* case, the Supreme Court of Canada confirmed that the doctrine of vagueness is also included among the principles of fundamental justice. That is, section 7 could be offended by a limit on life, liberty and security of the person not otherwise objectionable "but for the vagueness of the impugned law." Writing for a unanimous court, Mr. Justice Gonthier held that the law must be sufficiently precise as to give citizens fair notice "that certain conduct is the subject of legal restrictions." Furthermore, because enforcement discretion must be limited, "a law must not be so devoid of precision in its content that a conviction will automatically flow from the decision to prosecute."

In determining whether a law is too vague, the Court would consider (a) the need for flexibility and the interpretive role of the courts, (b) the impossibility of achieving absolute certainty and (c) the possibility of varying judicial interpretations. Suggesting a fairly high threshold, the Court went on to warn that "one must be wary of using the doctrine of vagueness to prevent or impede State action in furtherance of valid social objective, by requiring the law to achieve a degree of precision to which the subject matter does not lend itself."

In this case, the Supreme Court of Canada ultimately upheld that section of the *Combines Investigation Act* (now found in the *Competition Act*) that made it an offence to conspire, combine, agree or arrange with another, to prevent or lessen competition "unduly." After examining prior judicial interpretations, the public policy interest served and the content of the inquiry mandated by the impugned provision, the Court found that Parliament had "sufficiently delineated the area of risk and the terms of debate to meet the constitutional standard."

h. Overbreadth

In *R.* v. *Heywood*, a majority of the Supreme Court of Canada held that legislation can offend section 7 of the Charter if it "infringes life, liberty or security of the person in a manner that is unnecessarily broad, going beyond what is needed to accomplish the governmental objective." The accused in *Heywood* had been tried and convicted of "vagrancy" under section 179(1)(b) of the *Criminal Code*, which made it a crime for anyone convicted of specifically enumerated sexual offences to be "found loitering in or near a school ground, playground, public park or bathing area." Because the offence applied "without prior notice to the accused, to too many places, to too many people, for an indefinite period with no possibility of review," the Court found the resulting limitation on liberty to be "much broader than necessary to accomplish its laudable objective of protecting children from becoming victims of sexual offences." Mr. Justice Cory then pointed to newly enacted section 161 of the *Criminal Code* as "a good example of legislation which is much more carefully and narrowly fashioned to achieve the same objective" because it requires a court order, provides for both notice and review and applies only to those convicted of offences involving persons under 14. Finally, agreeing for the same reasons that section 179(1)(b) was overly broad, the majority of the Court found that the section failed the minimal impairment branch of the analysis and could not be justified under section 1.

i. Pre-charge Delay

In *W.K.L.* v. *R.*, the Supreme Court of Canada held that the right to a fair trial pursuant to sections 7 and 11(d) was not violated by a lengthy delay in laying a charge in a sexual abuse case. The Court took judicial notice of the fact that delays in reporting sexual abuse are common; it held that victims should not be required to report incidents before they are psychologically prepared for the consequences of doing so.

PARLIAMENTARY ACTION

A. Bill C-49; An Act to amend the Criminal Code (Sexual Assault), S.C. 1992, c. 38

Bill C-49 replaced the former *Criminal Code* section 276 with new procedures and criteria for determining the admissibility of evidence concerning a complainant's sexual conduct.

Additional provisions also define consent for the purposes of sexual assault and limit or remove the defences of consent and mistaken belief in consent in certain circumstances.

B. Bill C-30; An Act to amend the Criminal Code (Mental Disorder), S.C. 1991, c. 43, proclaimed in force 4 February 1992, except *Criminal Code* sections 672.64 to 672.66, as enacted by section 4, and sections 5, 6, 10(8) and 13)

This bill amended the *Criminal Code* by replacing the verdict of not guilty by reason of insanity with the verdict "not criminally responsible on account of mental disorder." The bill also set out the procedures to be followed for dispositions and reviews concerning those found "unfit to stand trial" or "not criminally responsible." Proclamation was delayed for a number of sections, including those that would place a "cap" on the length of disposition in respect of any given offence and those that would allow a court to order the initial part of a custodial sentence to be served in a treatment facility, where the offender is "suffering from a mental disorder in an acute phase" and requires immediate treatment.

C. Bill C-72; An Act to amend the Criminal Code (Self-induced Intoxication), S.C. 1995, c. 32

Bill C-72 removed the defence of intoxication for certain general intent offences by substituting a mental or fault element of criminal negligence.

CASES

***A. (L.L.)* v. *B.(A.)*, 14 December 1995, Supreme Court of Canada**

***B.C. Securities Commission* v. *Branch*, [1995] 2 S.C.R. 3**

Canada v. *Schmidt*, [1981] 1 S.C.R. 500

Cunningham v. *Canada*, [1993] 2 S.C.R. 143

DeSousa v. *The Queen*, [1992] 2 S.C.R. 944

Kindler v. *Canada* (*Minister of Justice*), [1991] 2 S.C.R. 779

Nelles v. *Ontario*, [1989] 2 S.C.R. 170

Operation Dismantle Inc. v. *The Queen*, Can. Charter of Rights Ann. 12-7 (Fed. C.A.), [1985] 1 S.C.R. 441

R. v. *Beare*, [1988] 2 S.C.R. 387

R. v. *Bernard*, [1988] 2 S.C.R. 833

R. v. *Broyles,* [1991] 3 S.C.R. 595

***R.* v. *Carosella* (1995), 26 O.R. (3d) 209 (Ont. C.A.)**

R. v. *Chambers*, [1990] 2 S.C.R. 1293

***R.* v. *Crawford*; *R.* v. *Creighton*, [1995] 1 S.C.R. 858**

R. v. *Creighton*, [1993] 3 S.C.R. 3

R. v. *Daviault*, [1994] 3 S.C.R. 63

R. v. *Durette*, [1994] 1 S.C.R. 469

R. v. *Finlay*, [1993] 3 S.C.R. 103

***R.* v. *Fitzpatrick*, 16 November 1995, Supreme Court of Canada**

R. v. *Gosset*, [1993] 3 S.C.R. 76

R. v. *Gustavson* (1982), 1 C.C.C. (3d) 470 (B.C.S.C.)

R. v. *Hébert*, [1990] 2.S.C.R. 151

R. v. *Heywood*, [1994] 3 S.C.R. 76

R. v. *Hundal*, [1993] 1 S.C.R. 867

R. v. *Janoff* (1991), 68 C.C.C. (3d) 454 (Que. C.A.)

***R.* v. *Jobin*, [1995] 2 S.C.R. 78**

R. v. *Jones* (1994), 30 C.R. (4th) 1 (S.C.C.)

R. v. *L. (D.O.)*, [1993] 4 S.C.R. 419

R. v. *Langlois* (1993), 80 C.C.C. (3d) 28 (Que. C.A.)

R. v. *Laramee* (1991), 73 Man. R. (2d) 238

R. v. *Levogiannis*, [1993] 4 S.C.R. 475.

R. v. *Martineau*, [1990] 2 S.C.R. 633

R. v. *Naglik*, [1993] 3 S.C.R. 122

R. v. *Nova Scotia Pharmaceutical Society*, [1992] 2 S.C.R. 606

R. v. *O'Connor*, 14 December 1995, Supreme Court of Canada

R. v. *Primeau*, [1995] 2 S.C.R. 60

R. v. *S. (R.J.)*, [1995] 1 S.C.R. 451

R. v. *Seaboyer*; *R.* v. *Gayme*, [1991] 2 S.C.R. 577

R. v. *Stinchcombe*, [1991] 3 S.C.R. 326

R. v. *Swain*, [1991] 1 S.C.R. 933

R. v. *Vaillancourt*, [1987] 2 S.C.R. 636

Re B.C. Motor Vehicle Act, [1985] 2 S.C.R. 486

Reference re Ng Extradition (Canada), [1991] 2 S.C.R. 858

Rodriguez v. *Attorney General of Canada of British Columbia*, [1993] 3 S.C.R. 519

Southam Inc. v. *Hunter*, [1984] 2 S.C.R. 145

Thomson Newspapers Ltd. v. *Canada Director of Investigation and Research, Restrictive Trade Practices Commission*, [1990] 1 S.C.R. 425

W.K.L. v. *R.*, [1991] 1 S.C.R. 1091

ACCO®

ACCOPRESS™MMC

YELLOW	25070	JAUNE
*BLACK	25071	NOIR*
*BLUE	25072	BLEU*
RL. BLUE	25073	RL. BLEU
*GREY	25074	GRIS*
GREEN	25075	VERT
RUST	25078	ROUILLE
EX RED	25079	ROUGE

ACCO CANADA INC.
WILLOWDALE, ONTARIO

* INDICATES 75% RECYCLED 25% POST-CONSUMER FIBRE

*SIGNIFIE 75 % FIBRES RECYCLÉES, 25 % DÉCHETS DE CONSOMMATION

BALANCE OF PRODUCTS 25% RECYCLED

AUTRES PRODUITS: 25 % FIBRES RECYCLÉES